IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 209 (S/S) of 2005

Smt. Devki Joshi,
w/o Sri B.D. Joshi,
serving as Head Mistress,
Primary School, Dhurchu,
Post Office- Dhurchu,
Tehsil and District – Pithoragarh

.....Petitioner.

Versus

1. Additional District Education Officer/District Basic Education Officer, Pithoragarh.
2. Additional Director (Basic) of Education, Kumaon Region, Nainital.
3. Director of Education (Basic), Uttaranchal, Dehradun.

.....Opposite Parties.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tiwari, learned Counsel for the petitioner and learned Standing Counsel, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agreed to decide the writ petition at its admission stage itself.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of Mandamus directing the respondents to pass appropriate orders regarding petitioner's transfer at some accessible place in the light of the medical reports/ certificates issued by the Medical Board.

The petitioner was appointed as Assistant Teacher in Primary School in the year 1977. Since then she is continuously serving the Department with due honesty and dedication. Petitioner was

promoted as Head Mistress, Primary School in September, 2002 and presently she is posted at Primary School, Dhurchu, Tehsil and District- Pithoragarh Since 16.9.2002. Dhurchu is situated in remote area of district- Pithoragarh which is 6 Kms away form the motor road.

In the year 1999, when the petitioner was posted at Primary School, Marh, District – Pithoragarh, she got multiple fractures in the right foot and since then she is facing difficulties in walking on uneven path and due to topographical conditions of Dhurchu the difficulty of petitioner has increased manifold.

Petitioner is about 52 years old. Her gall bladder was removed after operation and thereafter, she is suffering form respiratory problem. Because of all these difficulties, she was on medical leave for about one year. She has requested the Basic Education Officer to transfer her to some accessible place. Basic Education Officer wrote a letter dated 14.6.2004 to Additional Director, Medical Health and Family Welfare, Kumaon Region, Nainital. In pursuance to that letter petitioner appeared before the medical board on 22.6.2004 and medical board has also recommended her case for being posted at some place which is accessible for the petitioner for regular treatment. In spite of this respondent has not taken any action. The transferring authority is the District Basic Education Officer, who has written letter to Director, Education(Basic) dated 28.1.2005 seeking instruction in this matter.

Considering all these difficulties, it is fit case where a direction could be issued to the concerned

authorities to take action sympathetically. Consequently, I direct the Basic Education Officer, Kumaon Region to take decision on the representation of the petitioner in the light of her illness within a period of three weeks form the date of receipt of certified copy of this order.

If the Basic Education Officer, does not have power to transfer her, he/she will take necessary action to get approval from the Incharge, Basic Education of the Region and pass appropriate order within the aforesaid period.

With this direction writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

March 03, 2005
S.K. Sharma